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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/796,162

03/09/2004

James D. Welch

3028

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05/31/2007

EXAMINER

POND, ROBERT M

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/796,162

Applicant(s)

WELCH, JAMES D.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The Applicant is reminded that twice-rejected claims are eligible for appeal.

### ***Response to Arguments***

Applicant's arguments, see Remarks filed 03 May 2007, with respect to the rejection(s) of claim(s) 1-27 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Darago in view of Allison. In light of Allison being withdrawn as the primary reference, the Applicant's arguments are moot. Darago and Allison or Darago, Allison, and Lawcast teach and suggest the claimed invention as noted below.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

- 1. Claims 1-7, 9, 10, 15, 21, and 25 are rejected under 35 USC 103(a) as being unpatentable over Darago (US 6,170,014) in view of Allison (IDS entered 09 March 2004, US 6,546,230).**

Darago teaches a system and method for managing courseware and other content in a computer network environment. Darago teaches accessing courseware independent of tests or quizzes and discloses an optional reservation system used to schedule access to a particular course. Darago further teaches:

- *an information provider providing an internet web site;* website is accessed over the Internet (see at least Fig. 1; col. 7, line 57-col. 10, line 37).
- *said information provider making audio format professional continuing education information available from audio information format machine readable storage via said web site, in topical categories;*

paintings, pictures, books, songs, other performances, texts, diagrams, recording video clips, and courses utilizing them for instructional purposes and/or entertainment are available in machine readable forms. In particular, many computer-assisted lessons, training materials, and other instructional courses include works which can be protected under

Art Unit: 3625

intellectual property laws, such as visual works, audio works, texts, examinations, simulations, and other works (see col. 1, lines 20-32); the content server contains courseware and/or other managed content, content may take a variety of forms, including software, video, audio and other types of digital content; during selecting step 78, user may select one or more courses, selection being made by a sponsor or the user making selections using menus and/or other user interface tools and techniques familiar in the art (see at least col. 21, lines 19-26).

- making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of: periodic subscription; direct pay per access event; pays only for actual use (i.e. pay-per access) (see at least col. 6, lines 32-34); See below for periodic subscription.
- said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of: proof of paid subscription; and presenting payment means; authenticates student to allow access or paid courses by sponsor or paid individually (see at least col. 6, lines 1-14; col. 10, lines 38-61); student provides credit card number (see at least col. 3, lines 28-35).

- and identifying a professional continuing education information topical category of interest, followed by said at least one paying client receiving audio format professional continuing education information in said topical category of interest. Courseware may be used by traditional students, but it may also be used by employees of government agencies and corporations (see at least col. 1, lines 46-50). It would have been obvious to one of ordinary skill in the art time the invention was made that courseware being used by the employees is continuing the education of the employees.
- followed by said at least one paying client accessing, without requirement of intermediate steps, and receiving audio format professional continuing education information in said topical category of interest; registered student can access content directly and forego intermediate steps.
- said method further comprising:  
said information provider updating the audio format professional continuing education information in the at least one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest; It would have been obvious to one of ordinary skill in

the art time the invention was made to keep courseware current in order to sustain business operations.

- said method being further characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency. As noted above, Darago teaches and suggests alone providing online continuing education courseware to employees of government agencies and corporations. Although Darago does not teach professional currency, it would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain that government agencies and corporations paying for continuing education for their employees do so to upgrade employee skills and knowledge pertinent to performing their job assignments within their fields of employment.
- attestation: student may take interactive tests or quizzes, grading sent to student and/or instructor (see at least col. 21, lines 35-40).
- live audio presentation: interaction via live audio and/or video carried over the network (see at least col. 21, lines 27-34).

- database storage: administrative information, student grades, student lists, student IDs, email addresses are stored in a database (see at least col. 2, lines 50-54) .

Darago teaches and suggests all the above as noted under the 103(a) rejection and teaches a) courseware delivery via a website, b) pay-per-access for courseware, and c) many systems combining one or more features into a courseware environment. Although Darago does not specifically disclose payment on a periodic subscription basis, Darago in view of Allison teach and suggest the claimed invention. Allison teaches a system and method of providing continuing education and learning assessment via an Internet web site (see at least abstract; Fig. 1; col. 1, line 5 through col. 2, lines 42). Allison further teaches making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of periodic subscription and direct pay per access event (see at least col. 6, lines 54-65). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify Darago to arrange pay on a subscription basis in combination with other payment methods as taught by Allison, in order to provide an alternative to pay-per-access, and thereby provide a payment convenience to the online student.

Darago teaches and suggests all the above as noted under the 103(a) rejection and teaches a) courseware delivery via a website, b) interactive quizzes and tests, and c) storing student grades. Although Darago does not disclose



linkage to state licensing body, Darago in view of Allison teach and suggest the claimed invention. Allison teaches the system recommending courses to overcome deficiencies and further teaches submitting a student's transcripts to a state licensing entity or other certifying organization (see at least Fig. 7 (204, 216, 218); Fig. 9; col. 2, lines 38-42; col. 11, lines 26-33). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify Darago to provide course recommendations to overcome deficiencies and to link to a state licensing body to provide completion of continuing educational requirements as taught by Allison, in order to provide a student convenience for the student requiring state licensing.

- 2. Claim 8 is rejected under 35 USC 103(a) as being unpatentable over Darago (US 6,170,014) and Allison (IDS entered 09 March 2004, US 6,546,230) as applied to claim 1, further in view of Lawcast (a collection of prior art disclosing Lawcast cited in PTO-892, Items: U and V) and ON1 (admitted prior art, Official Notice regarding notoriously old and well known in the arts).**

Darago and Allison teach and suggest all the above as noted under the 103(a) rejection and teach a) delivering courseware in audio format, and b) providing continuing education for professionals. Although Darago and Allison do not disclose interviews, expert commentary, subscriber-client Hyde Park (Lawcast: V: see page 1), Darago and Allison further in view of Lawcast teach

and suggest the claimed invention. Lawcast teaches a system and method of delivering in audio format tape cassettes to legal professionals on the go who want to stay up to date of topics of interest by listening to audio tapes while doing other tasks (e.g. driving a car). Lawcast teaches the subscription-based service providing a 60 to 90-minute tape every two weeks including an outline (i.e. summary). Lawcast teaches providing the subscriber with a printed outline that summarizes and cites every case, story, and authority mentioned on tape (U: see at least pages 1 and 2; V: see page 1). Lawcast further teaches providing in audio format interviews, expert commentary, and subscriber-client Hyde Park (Lawcast: V: see page 1). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify the system and method of Darago and Allison to provide interviews, expert commentary, and subscriber-client Hyde-Park as taught by Lawcast, in order to keep professional on-the-go up-to-date in their profession.

Darago and Allison teach and suggest all the above as noted under the 103(a) rejection and teach a) the registration server of Darago providing advertising and other inducements for Web walkers and potential users of the system to become familiar with the system (see col. 13, lines 6-10), and b) chat room and other informational content. Although Darago and Allison do not disclose subscriber-client advertising programming, it would have been obvious to one of ordinary skill in the art at time the invention was made that subscriber-client programming is content suitable for chat room web pages or other areas of

the web service. For example, a sponsor corporation for an employee may desire to advertise on the courseware website.

- 3. Claims 11-14, 16-19, 22, 26, and 27 are rejected under 35 USC 103(a) as being unpatentable over Darago (US 6,170,014) and Allison (IDS entered 09 March 2004, US 6,546,230) as applied to claim 1, further in view of Lawcast (a collection of prior art disclosing Lawcast cited in PTO-892, Items: U and V).**

Darago and Allison teach all the above as noted under the 103(a) rejection and substantially teach the claimed invention by teaching a system and methods of delivering online continuing education content and assessments to professionals desiring to keep up to date in their field of practice. Although Darago and Allison do not disclose specific courseware, Darago and Allison further in view of Lawcast teach and suggest the claimed invention. Lawcast teaches a system and method of delivering in audio format tape cassettes to legal professionals on the go who want to stay up to date of topics of interest by listening to audio tapes while doing other tasks (e.g. driving a car). Lawcast teaches the subscription-based service providing a 60 to 90-minute tape every two weeks including an outline (i.e. summary). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify Darago and Allison to provide legal topics of interest in audio format at taught by Lawcast, in order to serve the legal profession and thereby attract

professional to the service. It would have been obvious to one of ordinary skill in the art at time the invention was made that a litany of topics within science and law could be deployed online to help practitioners keep up to date in their respective fields.

Darago, Allison and Lawcast teach all the above as noted under the 103(a) and teach accessing course content and updating content, but do not disclose tagging content with an original date. One of ordinary skill in the art at time of the invention would ascertain tagging content with an original date as fundamental as tagging a journal or paper or court case with an original date and retrieving a journal or paper or court case tagged with an original date. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Darago, Allison and Lawcast to tag content with an original date as ascertained by one of ordinary skill in the art as being fundamental as tagging a journal or paper or court case with an original date.

- 4. Claim 20 is rejected under 35 USC 103(a) as being unpatentable over Darago (US 6,170,014), Allison (IDS entered 09 March 2004, US 6,546,230), and Lawcast (a collection of prior art disclosing Lawcast cited in PTO-892, Items: U and V) as applied to claims 1 and 19, further in view of ON2 (admitted prior art, Official Notice regarding old and well known in the arts).**

Darago, Allison and Lawcast teach all the above as noted under the 103(a) rejection and teach a) searching for topics based on a user-requested topics

(Allison) and b) receiving audio formatted information about patent law (i.e. a specific field of law chosen by the subscriber), but do not specifically disclose selection based on first keyword. The Examiner takes the position that database searches using one or more key words to search a topic is old and well known in the arts. For example, a subscriber entering "patent" as a keyword could receive content titles encompassing content on how to prepare a patent application, how to submit a patent application, how a patent application is prosecuted, etc. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify Darago, Allison and Lawcast to implement searches based on at least one keyword as taught by ON2, in order to retrieve a variety of content based on at least one keyword.

**5. Claims 23 and 24 are rejected under 35 USC 103(a) as being unpatentable over Darago (US 6,170,014) in view of Allison (IDS entered 09 March 2004, US 6,546,230).**

Darago teaches a system and method for managing courseware and other content in a computer network environment. Darago teaches accessing courseware independent of tests or quizzes and discloses an optional reservation system used to schedule access to a particular course. Darago further teaches:

- an information provider providing an internet web site; website is accessed over the Internet (see at least Fig. 1; col. 7, line 57-col. 10, line 37).

- said information provider making audio format professional continuing education information available from audio information format machine readable storage via said web site, in topical categories:  
paintings, pictures, books, songs, other performances, texts, diagrams, recording video clips, and courses utilizing them for instructional purposes and/or entertainment are available in machine readable forms. In particular, many computer-assisted lessons, training materials, and other instructional courses include works which can be protected under intellectual property laws, such as visual works, audio works, texts, examinations, simulations, and other works (see col. 1, lines 20-32); the content server contains courseware and/or other managed content, content may take a variety of forms, including software, video, audio and other types of digital content; during selecting step 78, user may select one or more courses, selection being made by a sponsor or the user making selections using menus and/or other user interface tools and techniques familiar in the art (see at least col. 21, lines 19-26).
- making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of: periodic subscription; direct pay per access event;  
pays only for actual use (i.e. pay-per access) (see at least col. 6, lines 32-34); See below for periodic subscription.

- said information provider allowing at least one client to receive said audio format professional continuing education information via said web site by, using an internet accessing means, accessing said web site, and providing payment via a selection from the group consisting of: proof of paid subscription; and presenting payment means; authenticates student to allow access or paid courses by sponsor or paid individually (see at least col. 6, lines 1-14; col. 10, lines 38-61); student provides credit card number (see at least col. 3, lines 28-35).
- and identifying a professional continuing education information topical category of interest, followed by said at least one paying client receiving audio format professional continuing education information in said topical category of interest. Courseware may be used by traditional students, but it may also be used by employees of government agencies and corporations (see at least col. 1, lines 46-50). It would have been obvious to one of ordinary skill in the art time the invention was made that courseware being used by the employees is continuing the education of the employees.
- followed by said at least one paying client accessing, without requirement of intermediate steps, and receiving audio format professional continuing education information in said topical category of interest; registered student can access content directly and forego intermediate steps.

- said method further comprising:

said information provider updating the audio format professional continuing education information in the at least one client identified topical category of interest in step d, and said at least one paying client in step d repeating step d after said audio format professional continuing education information is updated, and receiving the updated audio format professional continuing education information in said identified topical category of interest; It would have been obvious to one of ordinary skill in

the art time the invention was made to keep courseware current in order to sustain business operations.

- said method being further characterized in that the information in said client identified and received audio format professional continuing education is prepared to keep said client aware and informed of developments in the topical category and thereby maintain professional currency therein, to the exclusion of being prepared to train said client to overcome a specific documented professional competency deficiency. As noted above, Darago teaches and suggests alone providing online continuing education courseware to employees of government agencies and corporations. Although Darago does not teach professional currency, it would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain that government agencies and corporations paying for continuing education for their employees do so to



upgrade employee skills and knowledge pertinent to performing their job assignments within their fields of employment.

- attestation: student may take interactive tests or quizzes, grading sent to student and/or instructor (see at least col. 21, lines 35-40).
- live audio presentation: interaction via live audio and/or video carried over the network (see at least col. 21, lines 27-34).
- database storage: administrative information, student grades, student lists, student IDs, email addresses are stored in a database (see at least col. 2, lines 50-54) .

Darago teaches and suggests all the above as noted under the 103(a) rejection and teaches a) courseware delivery via a website, b) pay-per-access for courseware, and c) many systems combining one or more features into a courseware environment. Although Darago does not specifically disclose payment on a periodic subscription basis, Darago in view of Allison teach and suggest the claimed invention. Allison teaches a system and method of providing continuing education and learning assessment via an Internet web site (see at least abstract; Fig. 1; col. 1, line 5 through col. 2, lines 42). Allison further teaches making access to said audio format professional continuing education information available, via said web site to clients by a selection from the group consisting of periodic subscription and direct pay per access event (see at least col. 6, lines 54-65). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify Darago to arrange pay on a

subscription basis in combination with other payment methods as taught by Allison, in order to provide an alternative to pay-per-access, and thereby provide a payment convenience to the online student.

Darago teaches and suggests all the above as noted under the 103(a) rejection and teaches a) courseware delivery via a website, b) interactive quizzes and tests, and c) storing student grades. Although Darago does not disclose linkage to state licensing body, Darago in view of Allison teach and suggest the claimed invention. Allison teaches the system recommending courses to overcome deficiencies and further teaches submitting a student's transcripts to a state licensing entity or other certifying organization (see at least Fig. 7 (204, 216, 218); Fig. 9; col. 2, lines 38-42; col. 11, lines 26-33). Therefore it would have been obvious to one of ordinary skill in the art at time the invention was made to modify Darago to provide course recommendations to overcome deficiencies and to link to a state licensing body to provide completion of continuing educational requirements as taught by Allison, in order to provide a student convenience for the student requiring state licensing.

Darago, Allison and Lawcast teach all the above as noted under the 103(a) rejection and substantially teach the claimed invention by teaching methods that help a professional keep up-to-date via online training with updated course material. Although Darago, Allison and Lawcast do not disclose offering at least twice, once before and once after information is the topical category is updated, it would have been obvious to one of ordinary skill in the art at time the invention

was made to ascertain this to be prudent business practice. For example, one of ordinary skill in the art would ascertain situations or through discovery based on customer complaints, where a user paying based on pay-per-access may take a course immediately before the updated course is posted. Prudent practice would be to offer the updated course either as a customer courtesy or discounted price. If the user is on a subscription-based payment basis, the user can access the updated course again as intended.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Pond  
Primary Examiner  
May 28, 2007